

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2428 OF 2007

Narayan Damodar Nirgude ..Petitioner

V/s.

Sameer Narayan Nirgude & ors ..Respondents

Nitin Jamdar for the petitioner

CORAM : A.S.OKA, J

DATE : 10TH APRIL, 2007

P.C.

1. Heard the learned advocate for the petitioner. The petitioner is the original defendant No.1 who has taken exception to order dated 8th January, 2007 passed by the trial Court by which the plaintiffs have been permitted to lead the secondary evidence of the alleged Will by producing a xerox copy thereof.

2. The order impugned is of interlocutory nature which is capable of being challenged in the appeal which may be preferred against the decree passed in the suit. Moreover, merely because the secondary evidence is permitted to be led, the

requirement of the proof of document in accordance with law is not dispensed with. The execution of the alleged Will will have to be proved in accordance with law. Subject to what is stated above, writ petition is rejected.

(A.S.OKA, J.)